BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Carroll Family Partners	)
	Dist. 10, Map 68, Control Map 68, Parcel 14.00,	) Wilson County
	S.I. 000	)
	Commercial Property	)
	Tax Years 2005 & 2006	)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$387,000	$6,947,600	$7,334,600	$2,933,840

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 13, 2007 in Lebanon, Tennessee. In attendance at the hearing were registered agent L. Stephen Nelson and Debbie Smith for the appellant, Wilson County Property Assessor's representative Jeff White, and Derrick Hammond, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of the 150 unit Crosswinds Apartments located on Leeville Pike in Lebanon, Tennessee. Subject complex was initially constructed in 1985 with additions made periodically since that time.

In order to facilitate the reader's understanding of this opinion, it should be noted the taxpayer initially moved that the value adopted for tax year 2005 also be applied to tax year 2006 since Wilson County underwent a countywide reappraisal program in 2005. The assessor of property opposed the taxpayer's motion on the ground that occupancy improved significantly between January 1, 2005 and January 1, 2006 and materially affected subject property's indicated value via the income approach.

As explained at the hearing, the administrative judge finds that each tax year technically stands on its own and neither party is bound by an adjudication for a prior tax year. Accordingly, the administrative judge denied the taxpayer's motion. Pursuant to the administrative judge's suggestion, however, the parties' agreed to the issuance of an opinion adopting a composite value for both tax years by assuming an 8% vacancy and credit loss allowance in the income approach.[1]

[1] The taxpayer assumed vacancy rates and credit loss allowances of 11% for 2005 and 5% for 2006. The assessor of property assumed an 8% rate for both years.

The taxpayer contended that subject property should be valued at $5,250,000 for tax year 2005 and $5,625,000 for tax year 2006. In support of this position, Mr. Nelson introduced income approaches which he maintained supported value indications of $5,270,000 and $5,625,000 for tax years 2005 and 2006 respectively. For ease of reference, those income approaches are summarized in exhibit 1. In addition, Mr. Nelson introduced sales comparison approaches he asserted support value indications of $5,175,000 and $5,625,000 for tax years 2005 and 2006 respectively. Mr. Nelson placed greatest weight on the income approach in his correlation and concluded that subject property should be appraised at $5,250,000 as of January 1, 2005 and $5,625,000 as of January 1, 2006.

Mr. Nelson also noted that the Assessment Appeals Commission previously valued subject property at $4,777,500, $4,808,200 and $4,880,200 for tax years 2001, 2002 and 2003 respectively. Given an appraisal ratio of 91.52% for tax year 2001 and 91.51% for tax years 2002 and 2003, this equates to market values of $5,220,170, $5,254,289 and $5,332,969 for those three tax years.

The assessor contended that subject property should be valued at $6,918,400 and $6,653,200 for tax years 2005 and 2006 respectively. In support of this position, individual income approaches were introduced for each tax year under appeal. For ease of reference, those income approaches are summarized in exhibit 1. Mr. Hammond indicated the sales comparison approach was not utilized due to the lack of sales in the Lebanon market.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

In view of the definition of market value, the income-producing nature of the subject property and the age of subject property, generally accepted appraising principles would indicate that the market and income approaches have greater relevance and should normally be given greater weight than the cost approach in the correlation of value indicators.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $5,750,000 for tax years 2005 and 2006. As will be discussed below, the administrative judge finds that the income and sales comparison approaches support composite value indications of $5,818,462 and $5,500,000 respectively. The administrative judge finds that the income approach should receive greater weight due to the lack of sales in the Lebanon market. The administrative judge finds that the various indications of value should be correlated at $5,750,000.

The administrative judge finds that the income approach supports the following valuation of subject property.

Potential Gross Income		$1,115,000
Less Vacancy & Credit Loss	-	89,200
Plus Other Income	+	6,500
Total Effective Gross Income		$1,032,300
Less Operating Expenses	-	465,000
Net Operating Income (NOI)		$ 567,300
NOI Capitalized @ 9.75%	÷	.0975
Indicated Value Before Rounding		$5,818,462

The administrative judge finds that the four estimates of potential gross income differed by a maximum of 1% which is statistically insignificant. The administrative judge finds that a composite estimate of $1,115,000 should be adopted.

The administrative judge finds that Mr. Hammond assumed an 8% vacancy and credit loss for both tax years. Mr. Nelson, in contrast, utilized an 11% estimate for 2005 and a 5% estimate for 2006. As previously noted, the parties stipulated to a composite vacancy and credit loss allowance of 8%.

The administrative judge finds that Mr. Nelson's somewhat *higher* estimate of other income should receive greatest weight. The administrative judge finds that a composite figure of $6,500 should be adopted.

The administrative judge finds that the primary difference between the parties' income approaches concerned operating expenses (including reserves). The administrative judge finds that Mr. Nelson's analysis should receive greater weight and supports adoption of a composite figure of $465,000.

The administrative judge finds that Mr. Nelson supported his estimate of operating expenses by considering subject property's historical operating expenses, expense comparables and apartment expense information published by the Institute of Real Estate Management (IREM). Mr. Hammond, in contrast, essentially testified that he "stabilized" the expenses because operating statements invariably include capital expenditures. Respectively, the administrative judge finds that Mr. Hammond did not introduce any data to substantiate the contention that his various expense estimates reflect the market.

The administrative judge finds that the parties' proposed loaded capitalization rates of 9.3% and 10.3% established a reasonable range. The administrative judge finds that the preponderance of the evidence supports adoption of a 9.75% rate for the subject property.

As previously noted, the administrative judge finds that Mr. Nelson's sales comparison approaches were unrefuted. However, the administrative judge finds that the sales comparison approach has significantly less probative value than the income approach due to the lack of sales in Lebanon.

Based upon the foregoing, the administrative judge finds that the income and sales comparison approaches support composite value indications of $5,818,462 and $5,500,000 respectively. The administrative judge finds that the indications of value should be correlated at $5,750,000 with primary emphasis on the income approach.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2005 and 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$387,000	$5,363,000	$5,750,000	$2,300,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of

the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 22nd day of March, 2007.

Mark J. Minsky

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. L. Stephen Nelson
Jimmy Locke, Assessor of Property

EXHIBIT 1

	TAXPAYER 2005	ASSESSOR 2005	TAXPAYER 2006	ASSESSOR 2006
Potential Gross Income	$1,107,840	$1,118,682	$1,118,280	$1,116,000
Vacancy & Credit Loss	11%	8%	5%	8%
Other Income	$ 7,500	$ 3,000	$ 6,000	$ 3,000
Effective Gross Income	$ 993,478	$1,031,582	$1,068,366	$1,029,125
Expenses	$ 450,750	$ 388,175	$ 489,000	$ 410,375
Net Operating Income	$ 542,728	$ 643,407	$ 579,366	$ 618,750
Loaded Capitalization Rate	10.3%	9.3%	10.3%	9.3%
Indicated Value	$5,269,200	$6,918,355	$5,624,913	$6,653,226